

First Charter Bank
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August 4, 2004

Board of Governors of the Federal Reserve System
Ms. Jennifer J. Johnson, Secretary
20th Street and Constitution Avenue
Washington, D.C. 20551

RE: Regulation DD, Docket Number R-1197

Dear Board Members,

Thank you for the opportunity to comment on the proposed amendments to Regulation DD regarding overdrafts. First Charter is a \$4 Billion bank headquartered in Charlotte, North Carolina and we currently have over 120,000 checking accounts. We have had an automated overdraft payment program for several years. One of the key purposes of this program is to remove most of the pay-return decisions from our branches. This allows us to pay more items for the benefit of our customers and to reduce the branch workload.

Customers have been writing checks with insufficient funds since checking accounts were developed and banks have been making decisions whether to pay these items. Some banks have more formalized programs than others. However, clearly it is better for the customer if the item is paid rather than returned. The client avoids the merchant's returned check fees, as well as the embarrassment of having a "bounced check" or a returned wire or ACH draft.

Excessive regulation of automated payment of customer overdrafts may discourage banks from offering this service. This could lead to more returned checks and fees assessed by both banks and merchants. While we agree in theory with fully disclosing the terms of overdraft services, we would like to specifically comment on two items in the proposed amendments, as noted below:

1. Under the proposed revisions, institutions that provide periodic statements would be required to include the total amount of fees imposed for overdrafts and returned items for the statement period and for the calendar year to date.

We disagree with this recommendation for several reasons. We notify the client of these fees at three different points currently. He/she is informed of the amount of all potential overdraft and returned item fees at the time of account opening. We send a notice the day we receive an insufficient funds item that details the amount of any fees charged. In addition, we detail each NSF or Paid Item fee on the monthly statement on the date it occurs so that the customer can keep a running balance for his/her account.

To add an additional disclosure would be redundant. If the customer is balancing a checkbook, he/she is aware of, and subtracting from the balance, any fees that are

assessed. For balancing purposes, itemization of the individual fees is the most useful disclosure. If a customer does not balance his/her checkbook, additional disclosures of a monthly or year-to-date total will have little or no impact.

In addition, the proposed change would require a significant investment of time and money for programming and testing. First Charter feels our current disclosures are more than sufficient to adequately inform the customer of the cost of overdrafts.

2. The Board requests comment on whether the requirement to disclose cumulative year-to-date fee totals should be limited to institutions that market an overdraft payment service, and thereby encourage the routine use of the service.

As stated above, First Charter recommends against this proposed amendment. However, in the event it is implemented, we feel strongly the change should apply to all financial institutions which charge overdraft, returned item or insufficient funds fees.

The difficulty here is in defining the term "market" the overdraft payment service and determining what encourages "routine use of the service." Clearly media advertising, such as newspaper or radio, would be considered marketing. Other areas are less clear.

Our institution notifies customers that they have the service, however, we prominently highlight the amount of the fee they will pay if they overdraw the account. We feel that emphasizing the fee is a deterrent to overdrawing the account, rather than encouraging it. However, under the proposed regulations, would this be considering "marketing" the service?

We believe the act of paying one or more overdraft items implies that additional items will be paid. If so, then any institution that pays any overdraft items, especially through an automated program, could be considered marketing the service.

Since the amount of the fees charged by financial institutions are generally comparable within a marketplace, it does not seem fair to place the burden and expense of programming changes and additional disclosures only on those institutions who are deemed to be "marketing" the service, when it is difficult to define what define marketing in this context.

Thank you again for the opportunity to respond to this proposal. If you have any questions concerning our comments, please contact any one of us at (800) 422-4650.

Sincerely,

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President and CEO

Joy E. Goble
Senior Vice President, Product Manager

Jim Mathews
Senior Vice President, Operations Manager and Bank Security Officer